

Hearing Date and Time: December 20, 2007
Objection Deadline: November 26, 2007

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re	:	
	:	
DELPHI CORPORATION, <u>et al.</u> ,	:	Chapter 11
	:	
Debtors.	:	Case No. 05-44481 (RDD)
	:	
	:	(Jointly Administered)
	:	
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**OBJECTION OF SIEMENS VDO AUTOMOTIVE AG
TO THE NOTICES OF (A) CURE AMOUNT AND (B) ASSUMPTION AND/OR
ASSIGNMENT OF EXECUTORY CONTRACTS IN CONNECTION WITH THE SALE
OF THE DEBTORS' SALE OF ITS INTERIORS AND CLOSURES BUSINESSES**

Siemens VDO Automotive AG ("Siemens") hereby objects to (a) the Notice of Cure Amount with Respect to Executory Contract or Unexpired Lease to be Assumed and Assigned in Connection with the Sale of Interiors and Closures Businesses (the "Cure Notice"), and (b) the Notice of Assumption and/or Assignment of Executory Contract or Unexpired Lease to Purchasers in Connection with Sale of Interiors and Closures Businesses (the "Assignment Notice"), filed by Delphi Corporation or its debtor affiliates (collectively, "Delphi"), on or about November 16, 2007. In support of this objection, Siemens states as follows:

1. Siemens conducts business with Delphi, pursuant to which Siemens supplies Delphi with certain automotive components.

2. On or about October 15, 2007, Delphi filed an expedited motion for an order approving, *inter alia*, the assumption and assignment of certain executory contracts and unexpired leases related to Delphi's Cockpits and Interior Systems and Integrated Closure Systems Businesses (the "Sale Motion"). The Sale Motion is scheduled to be heard on December 20, 2007 at 10:00 a.m.

3. On the evening of Friday, November 16, 2007, after normal business hours, Delphi caused to be filed the Cure Notice and the Assignment Notice (collectively, the "Notices"). The Notices state that any objection to the Notices must be made within 10 days of the service of the notice. Whether or not intended by Delphi, this notice schedule was served in such a manner that it encompasses, *inter alia*, two weekends and the Thanksgiving holiday, and results in an unfairly short amount of time to respond to the proposed assumption and assignment, and any cure amount associated therewith. As such, Siemens asserts that it continues to investigate the facts underlying the Notices and the Sale Motion, and reserves the

right to modify and/or supplement this objection in the event that, in the course of its investigation, it discovers any new or additional information.

4. The Notices identify Purchase Order No. 550058187 between Siemens and Delphi (the “Purchase Order”), and assert that the cure amount associated with the assumption of the same is \$0.00 (the “Proposed Cure Amount”).¹

5. The Purchase Order relates to Part No. 16876763 (SV Number 5W148193-K) (the “Siemens Part”).

6. The Notices incorrectly identify the Purchase Order as the agreement between Siemens and Delphi related to the sale of the Siemens Part, and Siemens objects on this basis.

7. Despite the fact that Siemens has supplied Delphi with the Siemens Part over a period of years, there have been a number of purchase orders and other documents that relate to the purchase of the Siemens Part.

8. There is currently \$51,371.72 in outstanding invoices from Delphi issued in relation to Delphi’s purchase of the Siemens Part. All invoices were sent to Delphi Therman & Interior at the Tuscaloosa Facility located at 11005 ED Stephens Road, in Cottondale, Alabama. Other pertinent information for the outstanding invoices is as follows:

Date	Invoice Number	Invoice Amount
8/31/2005	39278246	\$5,859.84
9/14/2005	39282646	\$5,859.84
9/23/2005	39286357	\$5,859.84
9/25/2007	39538762	\$3,379.20
10/8/2007	39544201	\$3,379.20
10/8/2007	39544203	\$3,379.20
10/15/2007	39547242	\$6,758.40
10/23/2007	39550827	\$3,379.20
10/30/2007	39553982	\$3,379.20

¹ The Cure Notice identifies the Purchase Order as purchase order number D0550058187. On information and belief, D0550058187 is the same purchase order number as 550058187.

11/2/2007	39554973	\$3,379.20
11/9/2007	39557973	\$3,379.20
11/22/2007	39563188	\$3,379.20
Total		\$51,371.52

9. Furthermore, the amount due Siemens related to the purchase of the Siemens Part is subject to change as a result of any newly issued invoices, or any payments made on outstanding invoices. Siemens, therefore, asserts that any amounts due and owing related to the Siemens Part must be cured as a result of any contemplated assumption or assignment.

10. In addition, Siemens objects to the relief sought pursuant to the Sale Motion to the extent that any contemplated assumption and/or assignment related to the Purchase Order purports to impact the terms and conditions regarding the sale of the Siemens Part or to the extent that the Delphi is asserting that terms and conditions of the Purchase Order govern the sale of the Siemens Part.

11. Finally, Siemens notes that Delphi has included virtually no information in the Notices regarding the proposed purchaser, Inteva Products, LLC (“Inteva”). To support its contention of adequate assurance of future performance, Delphi refers only to “the significant resources” of Inteva without providing any factual information. As such, Siemens reserves the right to object to the relief sought pursuant to the Sale Motion and the Notices on the basis that the Notices provide insufficient information as to the fitness of Inteva, or any other successful purchaser, in relation to its ability to provide adequate assurance of future performance, without limitation, the purchaser’s financial wherewithal to make payments and/or the ability to ensure that Siemens’ intellectual property rights are preserved.

12. Currently, Siemens has no information concerning Inteva’s experience, capabilities, intentions and financial wherewithal. Siemens likewise has no experience working

with Inteva. Therefore, Siemens does not have sufficient information to determine whether Inteva is an appropriate assignee of its purchase orders. Siemens objects to the proposed assignment of the Purchase Order unless and until it is provided the factual information sufficient to constitute adequate assurances of future performance as required for assignment under 11 U.S.C. § 365(f).

13. Similarly, Siemens reserves the right to object to the assignment of its purchase orders to any other prospective purchaser unless and until Siemens is provided with adequate assurances of that party's ability to fully and timely perform.

14. Because the legal points and authorities upon which this objection relies are incorporated herein, and do not represent novel theories of law, Siemens respectfully requests that the requirement of the service and filing of a separate memorandum of law under Local Rule 9013-1(b) of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of New York be deemed satisfied.

WHEREFORE, Siemens requests that the Court condition the assumption and assignment of any agreement related to the Purchase Orders to Inteva, or any other prospective purchaser of Delphi's Interiors and Closures Businesses on the correct contract being identified, the correct cure amount being paid, and Delphi proving that the purchaser can provide adequate assurance of future performance.

Dated: November 26, 2007

Respectfully submitted,
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